*** THE HON'BLE SRI JUSTICE B. PRAKASH RAO**
AND
***THE HON'BLE SRI JUSTICE RAMESH RANANATHAN**

+ W.A.NOS. 2581 AND 2618 OF 2005

W.A.No. 2581 of 2005:

% 11.07.2006

The Cotton Corporation of India Limited, resp.,by its Branch Manager, Arundalpet, Guntur District.

….. Petitioner

Vs.

1. $ The Presiding Officer, Labour Court, Guntur.

….Respondents.

! Counsel for the Petitioner: Sri A.K. Jayaprakash Rao

^ Counsel for the Respondents: Sri G. Vidyasagar

< Gist:

>Head Note

? Citations:

[1] (2005) 3 SCC 134
2 (2006) 1 SCC 430
3 (2005)3 SCC 331
4 (2005) 2 SCC 489
5 (2002) 10 SCC 330
6 2000(3) SCC 324
7 AIR 1987 SC 37
8 (2005) 2 SCC 481
9 (2003) 12 SCC 1
10 (2005) 3 SCC 401
11 (2002) 6 SCC 41
12 (2006) 1 SCC 479
13 (2005) 2 SCC 363

14 (2005) 5 SCC 124
15 (2005) 5 SCC 591
16 (2001) 2 SCC 54
17 (2003) 6 SCC 141
18 (2006)4 SCC 733
19 (2006)3 SCC 790
20 (2005)10 SCC 84
21 (2004) 8 SCC 218
22 (2006) 2 SCC 255
23 (2005) 7 SCC 338

THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANANATHAN

W.A.NOS. 2581 AND 2618 OF 2005

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Aggrieved by the order in W.P.No. 8088 of 1999 and 7722 of 1999 dated 11.07.2005 whereby the punishment awarded by the labour Court, Guntur in I.D.No. 73 of 1988 dated 25.01.1999, was modified, the present appeals are filed by Cotton Corporation of India, the Employer. Questioning the award in I.D.No.73 of 1988, the appellant herein had filed W.P.No. 7722 of 1999, and the respondent workman had filed W.P.No. 8088 of 1999.

The respondent–workman, a Cotton purchase officer, was issued a charge sheet on 28.12.1984 and the charges levelled against him therein read thus:

i. That Shri U. Chinnappa while functioning as Cotton Purchase Officer and posted as Center Incharge at Gudhihattanur center during the cotton season 1983-84 did not work with full devotion to duty and acted in a manner prejudicial to the interests of the Corporation by not conducting/taking experimental outturns as per the guidelines issued, and he has based his purchases with unrealistic outturns resulting in wide difference between budgeted and actual paid hard by Rs.243/- per candy.

ii. That Shri U. Chinnappa while functioning as Cotton Purchase Officer and posted as Center Incharge at Gudihattanur Center during the cotton season 1983-84 did not work with full devotion to duty and acted in a manner prejudicial to the interests of the Corporation by not maintaining heap-wise results. He was instructed to maintain heap-wise for guidance for future purchase, but contrary to it he willfully neglected the instructions and continued purchases without maintaining heap-wise results resulting into abnormal shortages, and high padthar thereby resulting huge loss to the Corporation.

iii. That Shri U. Chinnappa while functioning as Cotton Purchase Officer and posted as Center Incharge at Gudihattanur center during the cotton season 1983-84 did not work with full devotion to duty and acted in a manner prejudicial to the interests of the Corporation and did not work without responsibility, which resulted into high percentage of processing shortages by way of gins to process, and wide difference between the budgeted and actual podha to the extent of Rs243/- per candy in case of H-4 variety.

An enquiry was conducted into these charges and, on being found guilty thereof, the respondent-workman was imposed the punishment of removal from service. The appeal preferred by him was dismissed vide proceedings dated 08.12.1987. His mercy petition was also rejected on 05.01.1988. Aggrieved thereby the respondent-workman approached the labour Court, Guntur under Section 2-A(2) of the Industrial Disputes Act. No oral evidence was adduced both on behalf of the appellant and the respondent herein. Exs.M-1 to M-5 were, however, marked as exhibits by the Appellant herein.

Before the labour Court, the respondent-workman contended that the punishment imposed was discriminatory and while 15 others, whom he specifically named as having been charged of the same misconduct, were continued in service he was imposed the punishment of dismissal from service. The appellant herein

contended that the provisions of the Industrial Disputes Act was inapplicable, that they had lost confidence in the respondent-workman on account of his continuous misconduct and dereliction of duty and that his negligence had resulted in heavy financial loss to the corporation.

The labour Court examined the contents of the enquiry report and took note of the findings of the enquiry officer that he was not convinced that the respondent-workman had taken all necessary precautions to protect the stocks from calamity of nature and while he had taken some steps such as addressing letters, these steps were not sufficient. The labour Court held that, by taking all necessary precautions, the difference in actual and budgeted padthar could have been reduced to some extent. After perusal of the enquiry report, the labour Court held that none of the charges framed against the respondent-workman related to misappropriation and all the charges, which were inter-connected, only disclosed that the respondent-workman did not work with full devotion to duty, that he was negligent in the discharge of his duties and that the punishment imposed was shockingly disproportionate to the charges leveled against him. The labour Court held that other employees i.e., G.S. Dhiman, Syed Rasheed and V. Veeraiah, who were also charged of similar misconduct, were admittedly let off with a lenient punishment of deferment of increments or their pay was reduced.. While holding that the petitioner did not act diligently in discharge of his duties and there had been some negligence on his part, the labour Court held that it did not warrant his removal from service. The labour Court held that, after filing of the petition, the respondent-workman had attained the age of superannuation, that he had not worked for the

entire period and that several other persons who had committed mistakes of the same nature, which the respondent-workman had committed, were punished with deferment of increments or reduction of pay. The labour Court held that the respondent-workman was entitled only for full back wages from the date of termination till he attained superannuation without other attendant benefits and that he was only entitled to the last pay drawn by him, from the date he was removed from service till he attained the age of superannuation, without any further benefits.

The learned single judge, by order in W.P.No. 8088 of 1999 and W.P.No. 7722 of 1999 dated 11.07.2005, held that the labour Court had considered each and every aspect of the evidence including the punishment imposed in respect of others involved in the same misconduct and had come to the conclusion that, in the nature of misconduct alleged, the punishment of removal from service was disproportionate and as such, while exercising its powers under Section 11-A of the Industrial Disputes Act, had set aside the removal order and had passed the award. The learned single judge took note of the fact that the labour Court had held that it was not a case of misappropriation and had found that, though the charges were framed against others also, an enquiry was conducted separately by the appellants and some of them were let of with deferment of increments or reduction in pay as they had admitted their guilt, while the respondent-workman, since he had protested the charges thinking that he was innocent, was removed from service. The learned single judge held that it was a clear case of discrimination and therefore the punishment imposed upon the workman was shockingly disproportionate to the misconduct alleged and proved, and as the respondent-workman had attained

the age of superannuation on 07.01.1995 and, therefore, to meet the ends of justice on the peculiar facts of the case, the labour Court had directed full back wages from the date of termination till the date of superannuation. The learned single judge held that the labour Court had rightly come to the conclusion that all the charges were inter-connected and disclosed that the workman did not work with full devotion to duty and had acted in a manner prejudicial to the interests of the Corporation. The learned judge held that since it was not a case of misappropriation or embezzlement of the property of the Corporation, and also in view of the fact that identical and similar charges framed against many others resulted in their being let off with a simple punishment of deferment of increment or reduction of pay, the labour Court had not committed any error in coming to such a conclusion calling for interference of this Court under Article 226 of the Constitution of India.

The learned Single Judge, however, held that the labour Court, while holding that others were let off with deferment of increments, had imposed a severe punishment of entitlement to the last drawn pay by the petitioner as on the date when he was removed from service till he attained the age of superannuation without any further benefits. The learned judge took note of the fact that during the period, the petitioner was out of service, there was a revision in the pay scales and that the workman was denied the benefits of pay revision. Keeping this in mind the learned single judge modified the award passed by the labour Court and directed the appellant herein to pay the respondent-workman full back wages from the date of termination till the date he attained superannuation without any further increments and other attendant

benefits and that the workman was entitled for fixation of his pay in the appropriate scale from the date of giving effect to the revised pay scales and that he would draw the last drawn pay from the date of removal till the date of effecting the revised pay scales and thereafter, the pay fixed under the revised pay scales till the date of superannuation. The learned single Judge held that the respondent-workman was also entitled for gratuity and other terminal benefits as per his eligibility.

It is necessary to note that both the appeals are preferred by the appellant herein, against the orders passed in W.P.No. 8088 of 1999 and W.P.No. 7722 of 1999, and that the respondent-workman has not chosen to question the order of the learned single judge. Since both the labour Court and the learned single judge have held the charges of misconduct leveled against the respondent-workman had been established and as the respondent-workman has not chosen to challenge these findings before us, the only question which is required to be considered is as to the nature and extent of punishment imposed on the respondent-workman for proved misconduct.

Sri A.K. Jayaprakash Rao, learned Counsel for the appellant, would submit that the labour Court erred in granting back wages from the date of termination till the date of the award on the basis of the last pay drawn, and that this Court ought not to have granted him the further benefit of revised pay scales and other terminal benefits. Learned Counsel would submit that back wages cannot be awarded as a matter of course and that the labour Court ought to have considered several factors, such as whether the workman was employed elsewhere, whether the delay in pendency of proceedings before the labour Court was on

account of the workman or the management, whether the conduct of the workman justified grant of back wages etc, before awarding him full back wages. Learned Counsel would submit that since the labour Court mechanically directed payment of back wages without examining these factors, the award of the labour Court was required to be set aside. Learned Counsel would submit that the jurisdiction of this Court, under Article 226 of the Constitution of India, is supervisory and not appellate and that, except in exceptional circumstances, this Court would not interfere with the quantum of punishment imposed by the employer. According to the learned Counsel the nature and extent of punishment to be imposed is for the employer to decide and neither the labour Court under Section 11-A of the Industrial Disputes Act nor this Court under Article 226 of the Constitution of India, except where the punishment imposed is found grossly disproportionate or shocks it conscience, would be justified in interfering with the punishment imposed by the employer.

Sri G. Vidyasagar, learned Counsel for the respondent-workman, on the other hand, would seek to sustain the order of the learned single judge. Learned Counsel would submit that unlike in cases where the punishment imposed, pursuant to the departmental enquiry, is challenged straight away before this Court, where the award of the labour Court is under challenge this Court, under Article 226 of the Constitution of India, would have wider jurisdiction to interfere with the quantum of punishment. Learned Counsel would submit that since the power to interfere with the quantum of punishment has been specifically conferred on Industrial Tribunals/Labour Courts, under Section 11-A of the

Industrial Disputes Act, this Court would also have the power to do so under Article 226 of the Constitution of India. Learned Counsel would submit that since the punishment, as modified by the labour Court, was considered to be unduly harsh, more so when other employees, who were charged of the same/similar offences were imposed a lesser punishment, the learned single judge was justified in modifying the punishment imposed by the labour Court. Learned Counsel would submit that the learned single judge, in effect, has not even modified the punishment imposed by the labour Court, has merely clarified the award recognizing the fact that subsequent to the termination of the workman the pay scales of employees of the appellant Corporation had been revised and had, therefore, merely directed that these revised pay scales be extended to the respondent-workman also. Learned Counsel would submit that the respondent workman has been waging a relentless battle for the last two decades and the multiplicity of proceedings instituted by the appellant is only to harass the respondent-workman and to deny him payment of the amounts legitimately due to him.

QUANTUM OF PUNISHMENT: SCOPE OF INTERFERENCE UNDER SECTIN 11-A OF THE INDUSTRIAL DISPUTES ACT:

After introduction of Section 11-A, in the Industrial Disputes Act, a certain amount of discretion is vested with the Labour Court/Industrial Tribunal in interfering with the quantum of punishment awarded by the management where the workman concerned is found guilty of misconduct. The area of discretion is well defined and is not unlimited. The discretion which can be exercised under Section 11-A is available only on the existence of certain factors like punishment being disproportionate to the

gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which require the reduction of the sentence, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power under Section 11-A of the Act and reduce the punishment. (**Mahindra and Mahindra Ltd. v. N.B. Narawade**[1])

While exercising its discretionary jurisdiction under Section 11-A of the Industrial Disputes Act it is no doubt open to the Tribunal to substitute one punishment by another but the Tribunal exercises limited jurisdiction in this regard. The jurisdiction to interfere with the quantum of punishment could be exercised only when it is found to be grossly disproportionate and on arriving at a finding that no reasonable person could inflict such a punishment. The Tribunal may furthermore exercise its jurisdiction when relevant facts are not taken into consideration by the management which would have a direct bearing on the quantum of punishment. (**Hombe Gowda Educational Trust v. State of Karnataka**[2])

If the Tribunal decides to interfere with the punishment it should bear in mind the principle of proportionality between the gravity of the offence and the stringency of the punishment. (**Muriadiah Colliery of Bharat Coking Coal Ltd. Vs. Bihar Colliery Kamgar Union through workmen**[3]). The Labour Court and the Industrial Tribunal must act within the four corners and in terms of the provisions of the Industrial Disputes Act. Industrial Courts would not sit in appeal over the decision of the

employer unless there exists a statutory provision in this regard. The jurisdiction, though wide, must be exercised in terms of the provisions of the statute and no other. If the punishment is harsh, albeit a lesser punishment may be imposed, but such an order cannot be passed on irrational or extraneous factors and certainly not on compassionate grounds. (**Bharat Forge Co. Ltd. v. Uttam Manohar Nakate**[4]). The discretion under Section 11-A has to be used judiciously. (**Regional Manager, RSRTC v. Ghanshyam Sharma**[5]). The jurisdiction vested with the Labour Court to interfere with the punishment is not to be exercised capriciously and arbitrarily. **(U.P.S.R.T.C. Corpn. Vs. Subhash Chandra Sharma**[6]; **C.M.C. Hospital Employees Union Vs. C.M.C, Vellore**[7]). The power of the Labour Court, under Section 11-A, is not without limitation. There is no such thing as unlimited jurisdiction vested with any judicial or quasi-judicial forum. An unfettered discretion is a sworn enemy of the constitutional guarantee against discrimination. An unlimited jurisdiction leads to unreasonableness. No authority, be it administrative or judicial, has the power to exercise the discretion vested in it unless the same is based on justifiable grounds supported by acceptable materials and reasons therefor. The question the Labour Court ought to ask itself, while exercising its discretion under Section 11-A, should be whether there are sufficient reasons for it to come to a reasonable conclusion that the punishment imposed is grossly disproportionate. (**Bharat Heavy Electricals Ltd. v. M. Chandrasekhar Reddy**[8]). Only in a case where the

satisfaction is reached by the Labour Court or the Tribunal, as the case may be, that these are sufficient reasons to do so, would interference with the order of punishment be justified. (**Engg. Laghu Udyog Employees' Union v. Judge, Labour Court and Industrial Tribunal**[9]). Similarly, the High Court gets jurisdiction to interfere with the punishment in exercise of its jurisdiction under Article 226 of the Constitution only when it finds that the punishment imposed, is shockingly disproportionate to the charges proved. (**M.P. Electricity Board v. Jagdish Chandra Sharma**[10]).

As is clear from the award in I.D.No.73 of 1988, the labour Court held that the charge of misconduct held proved against the respondent-workman, did not relate to misappropriation and was merely a case of negligence in discharge of duties. The labour Court also took note of the fact that other employees Sri G.S. Dhiman, Syed Rasheed and V. Veeraiah, who were charged of similar misconduct, were let off with a lenient punishment of deferment of increments or reduction in pay. It is in such circumstances that the labour Court, on coming to the conclusion that the punishment of removal from service was shockingly disproportionate to the charges, more so when others charged of similar offences were let off with comparatively lesser punishments, exercised its discretion and interfered with the quantum of punishment imposed by the appellant herein on the respondent-workman. The Labour Court, took note of the fact that the respondent-workman had attained the age of superannuation during the pendency of proceedings in I.D.No.73 of 1988 and since a person who has reached the age of

superannuation cannot be reinstated into service, modified the punishment imposed by the appellant and directed payment of compensation in the form of full back wages from the date of termination till the respondent-workman attained the age of superannuation without other attendant benefits and held that he was only entitled to the last pay drawn by him on the date when he was removed from service till he attained the age of superannuation without any further benefits.

The labour Court, being the final Court of facts, its conclusions in holding that the punishment imposed on the respondent-workman was shockingly disproportionate, cannot be characterized as perverse or not in accordance with law. Since the labour Court has the discretion, under Section 11-A of the Industrial Disputes Act, and as the discretion exercised cannot be characterized as either arbitrary or perverse, no interference is called for by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

AWARD OF BACK WAGES : FACTORS TO BE TAKEN INTO CONSIDERATION BY THE LABOUR COURT:

Sri A.K. Jayaprakash, learned Counsel for the appellant, would however contend that the labour Court ought not to have awarded back wages since it is well settled that even if the order of punishment imposed by the employer is liable to be set aside, while the Tribunal could direct reinstatement, payment of back wages cannot be awarded as a matter of course.

Under Section 11-A of the Industrial Disputes Act, as

amended in 1971, the Industrial Tribunal is statutorily mandated, while setting aside the order of discharge or dismissal and directing reinstatement of the workman, to consider the terms and conditions, subject to which relief should be granted or to give such other relief to the workman including the award of any other punishment in lieu of discharge or dismissal, as the circumstances of the case may require. The section is couched in wide and comprehensive terms. It vests a wide discretion in the Tribunal in the matter of awarding proper punishment and also in the matter of the terms and conditions on which reinstatement of the workman should be ordered. It necessarily follows that the Tribunal is duty-bound to consider whether in the circumstances of the case, back wages have to be awarded and if so, to what extent. (**Hindustan Motors Ltd. v. Tapan Kumar Bhattacharya**[11])

Although earlier Courts insisted that it was for the employer to raise the plea, that the workman was gainfully employed elsewhere during the period he was not in the service of the employer, having regard to the provisions of Section 106 of the Evidence Act and provisions analogous thereto, a plea to the contrary must be raised by the workman. (**U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey**[12]). When the question, of determining the entitlement of a person to back wages, arises for consideration the employee has to show that he was not gainfully employed. The initial burden is on him. After, and if, he places materials in that regard, the employer can bring on record materials to rebut the claim. (**Kendriya Vidyalaya Sangathan v. S.C. Sharma**[13])

Earlier, in the event of an order of dismissal being set

aside, reinstatement with full back wages was the usual result. But with passage of time, it came to be realised that industry was being compelled to pay the workman for a period during which he apparently contributed little or nothing at all and for a period that was spent unproductively, while the workman was being compelled to go back to a situation which prevailed many years ago when his services were terminated. It was considered necessary to develop a pragmatic approach to problems dogging industrial relations, and though no just solution could be offered, a golden mean could be arrived at. (**Allahabad Jal Sansthan v. Daya Shankar Rai**[14])

There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service is in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment, namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. One of the important factors, which has to be taken into consideration, is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment.

However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which experience shows is often quite large, would be wholly inappropriate. Another important factor which is required to be taken into consideration is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily-wage employment though it may be for 240 days in a calendar year. (**G.M., Haryana Roadways v. Rudhan Singh**[15])

In the event of failure to comply with Section 25-F read with Section 25(*b*) of the Industrial Disputes Act, 1947, in the normal course of events, the Tribunal is supposed to award back wages in its entirety but the discretion is left with the Tribunal in the matter of grant of back wages and this discretion must be exercised in a judicial and judicious manner depending upon the facts and circumstances of each case. (**P.G.I. of Medical Education & Research v. Raj Kumar**[16] and **M.P. SEB v. Jarina Bee**[17]). Payment of back wages is a discretionary power which has to be exercised keeping in view the facts and circumstances of each case and neither can a straitjacket formula be evolved, nor a rule of universal application be adopted. (**P.G.I. of Medical Education & Research**[16] and **Hindustan Motors Ltd**[11]). No precise formula can be adopted nor a "cast-iron rule" laid down as to when payment of full back wages should be ordered by the court or the Tribunal. It depends upon the facts and circumstances of each case. The approach of the court/tribunal should not be rigid or mechanical but flexible and realistic. The court or tribunal dealing

with cases of industrial disputes may find force in the contention of the employee as to the illegal termination of his services and may come to the conclusion that action has been taken otherwise than in accordance with law. In such cases, while the workman would be entitled to reinstatement, the question regarding payment of back wages would be independent of the first question as to his entitlement of reinstatement in service. While considering and determining the second question, the court or tribunal would consider all relevant circumstances and keeping in view the principles of justice, equity and good conscience, should pass an appropriate order. (**U.P.SRTC LTD. VS. SARADA PRASAD MISRA**[18]).

The Labour Court, being the final court of facts, its conclusions which comply with the requirement of law do not, normally, call for interference. The High Court should record with reasons the finding of perversity, or being erroneous or not in accordance with law, in order to assail the finding of the Tribunal or the Labour Court. It is not for the High Court to go into the factual aspects of the matter. In the event, however the finding of fact is based on any mis-appreciation of evidence, that would be deemed to be an error of law which can be corrected by a writ of certiorari. Finding of the Labour Court cannot be challenged, in a proceeding in a writ of certiorari, on the ground that the relevant and material evidence adduced before the Labour Court was insufficient or inadequate though, however, perversity of the order would warrant intervention of the High Court. Payment of back wages, having a discretionary element involved in it, has to be dealt with, in the facts and circumstances of each case. When the issue in the

matter of back wages has been dealt with by the Labour Court, having regard to the facts and circumstances of the matter, upon exercise of its discretion and in a manner which cannot but be judicious in nature, no interference is called for. In the event, however, the High Court's interference is sought for, there exists an obligation on the part of the High Court to record in the judgment, the reasoning before denouncing a judgment of an inferior Tribunal, in the absence of which, the judgment cannot stand the scrutiny of otherwise being reasonable. There ought to be available in the judgment itself a finding about the perversity or the erroneous approach of the Labour Court and it is only upon recording such a finding would the High Court have the authority to interfere. (**P.G.I. of Medical Education & Research**[16]).

While it is true that the onus with regards payment of back wages is on the workman and the labour Court is required to consider several factors before directing payment of back wages in addition to reinstatement of the workman into service, it cannot be lost sight of that the present case is not one of reinstatement with full back wages, since the respondent-workman had attained the age of superannuation. The labour Court had directed payment of compensation in lieu of reinstatement and this compensation is in the form of payment of full back wages on the last drawn pay from the date of termination till the respondent-workman attained the age of superannuation without any further or other attendant benefits. It was well within the discretion of the labour Court, to pass such an award and since the award of the labour Court in this regard cannot be characterized as either arbitrary or perverse, it is not for this Court, in exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution of India, to interfere with the

discretion exercised by the labour Court under Section 11-A of the Industrial Disputes Act.

QUANTUM OF PUNISHMENT: SCOPE OF INTERFERENCE UNDER ARTICLE 226 OF THE CONSTITUION OF INDIA:

We find considerable force in the submission of Sri A.K. Jayaprakash, learned Counsel for the appellant, that the learned single judge ought not to have further modified the punishment awarded by the labour Court against the respondent-workman in granting further benefits to the respondent workman.

Law is well settled regarding the scope of interference by the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India, regarding the nature and extent of the punishment imposed by an employer on a delinquent workman for proved misconduct. When the High Court intends to interfere with the quantum of punishment on the ground that it is shockingly disproportionate it must record reasons for coming to such a conclusion. (**Maharashtra State Seeds Corpn. Ltd. Vs. Hariprasad**[19]; **Damoh Panna Sagar Rural Regional Bank Vs. Munna Lal Jain**[20]). Mere expression that the punishment is shockingly disproportionate would not meet the requirement of law. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the “inscrutable face of the sphinx”, it can, by its silence, render it virtually impossible for the courts to exercise the power of judicial review in adjudging the validity of the decision. Recording reasons is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone

against him. One of the salutary requirements of natural justice is spelling out reasons for the order made. The “inscrutable face of the sphinx” is ordinarily incongruous with a judicial or quasi-judicial performance. (**Damoh Panna Sagar Rural Regional Bank**[20]).

It is not the normal jurisdiction of the superior courts to interfere with the quantum of punishment unless the said punishment is wholly disproportionate to the misconduct proved. (**Regional Manager, Rajasthan SRTC v. Sohan Lal**[21]). The scope of judicial review is very limited. Sympathy or generosity as a factor is impermissible. Loss of confidence is the primary factor. **(T.N.C.S. Corpn. Ltd. v. K. Meerabai**[22]). Courts should not interfere with the administrator’s decision unless it is illogical or suffers from procedural impropriety or is shocking to the conscience of the court, in the sense that it is in defiance of logic or moral standards. Courts would neither go into the correctness of the choice made by the administrator nor would it substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision. Unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/ tribunal, there is no scope for interference. To shorten litigations Courts may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In the normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the appellate authority to reconsider the penalty imposed. (**Damoh Panna Sagar Rural Regional**

Bank[20]and **V. Ramana v. A.P. SRTC**[23]) .

No reasons have been assigned by the learned single judge as to why it was necessary for this Court to further interfere with the order of punishment and grant further benefits to the respondent-workman more than what was granted to him by the labour Court. No finding has been recorded by the learned Single Judge that the punishment as modified by the labour Court is grossly disproportionate or that it shocks the conscience of this Court. We are unable to accept the submission of Sri G. Vidyasagar, learned Counsel for the respondent-workman, that the order of the learned single judge is only a clarification or that it merely takes note of the subsequent revision in the pay scales. The award of the labour Court is categorical in that compensation was directed to be paid to the workman on the basis of his last drawn pay which, in effect, is the pay which he drew prior to his removal from service. The labour Court consciously denied all further benefits to the respondent-workman which would obviously include subsequent revision in pay scales also. In the absence of any finding recorded by the learned single judge that the approach of the labour Court was either arbitrary or perverse and as sympathy or generosity as a factor is impermissible, no interference, with the discretion exercised by the labour Court under Section 11-A of the Industrial Disputes Act, was called for. The order of the learned single judge, in so far as the relief granted by the labour Court was further modified giving additional monetary benefits to the respondent-workman, is accordingly set aside. The award of the labour Court in I.D.No. 73 of 1988 dated 25.01.1999 is confirmed. Both the writ appeals are disposed of

accordingly. However, in the circumstances, without costs.

_____

B.PRAKASH RAO, J

Date: -06-2006

_____

RAMESH RANGANATHAN, J

Note: L.R. copy to be marked.
B/o
MRKR

---

[1] (2005) 3 SCC 134

[2] (2006) 1 SCC 430

[3] (2005)3 SCC 331

[4] (2005) 2 SCC 489

[5] (2002) 10 SCC 330

[6] 2000(3) SCC 324

[7] AIR 1987 SC 37

[8] (2005) 2 SCC 481

[9] (2003) 12 SCC 1

[10] (2005) 3 SCC 401

[11] (2002) 6 SCC 41

[12] (2006) 1 SCC 479

[13] (2005) 2 SCC 363

[14] (2005) 5 SCC 124

[15] (2005) 5 SCC 591

[16] (2001) 2 SCC 54

[17] (2003) 6 SCC 141

[18] (2006)4 SCC 733

[19] (2006)3 SCC 790

[20] (2005)10 SCC 84

[21] (2004) 8 SCC 218

[22] (2006) 2 SCC 255

[23] (2005) 7 SCC 338